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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Extending Wireless Telecommunications
Services to Tribal Lands

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WT Docket No. 99-266
FCC 99-205

TO: The Commission

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DEC 9 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF
SOUTH DAKOTA INDEPENDENT TELEPHONE COALITION, INC.

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December 9, 1999

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SUMMARY

As the record in this proceeding demonstrates, many of the Commission's proposed initiatives intended to promote the provision of services to tribal lands and other unserved areas are misguided, unnecessary, and will not likely produce meaningful results.

As an initial matter, SDITC urges the Commission to recognize that carriers serving rural areas face many of the same problems and challenges as carriers serving tribal lands. The Commission therefore should consider the impact of its proposals on carriers and consumers in rural areas, and apply any rule changes relaxing operational requirements to tribal lands, unserved *and* rural areas. SDITC further urges the Commission to recognize that the problem of low telephone penetration rates on tribal lands is caused by a number of economic factors, and that rural telcos are willing and capable of providing service to tribal and other unserved areas. As noted by various commenters, the Commission appears to have confused low telephone penetration rates on tribal lands with lack of access. The most beneficial reforms for tribal lands would be programs creating economic growth and jobs.

SDITC opposes the suggestion that the Commission give wireless carriers access to universal service funds as the principle means of promoting the widespread deployment of services to tribal lands and other unserved areas. The entry of other providers should be in response to economic realities in the marketplace and not based on federal universal service subsidies that could threaten the provision of service to all rural Americans by rural telephone companies.

The Commission should improve the regulation of BETRS licensees, since it is clear that the current BETRS rules limit the ability of licensees to provide basic telephone service to tribal lands and other unserved areas.

With respect to specific initiatives set forth in the *NPRM*, SDITC urges the Commission to consider the record which demonstrates that:

- Any modifications to height/power rules must include interference protection measures, including recognition of a protected service area for present and future operations by an auction winner; safe harbor guidelines to ensure such protection; and consent requirements if the safe harbor criteria would be exceeded.
- Relaxed buildout requirements will not promote the deployment of wireless services to rural areas outside of tribal areas, and may actually slow deployment by discouraging service to low population density areas and destroying any incentive to partition to rural telcos.
- Allowing licensees to expand their coverage into adjacent licensing areas that are unserved will create uncertainty for licensees bidding at auctions, and will undermine the value of licenses granted by the FCC.
- The expansion of permissible service definitions will reduce the value of commercial mobile radio licenses already assigned, and undercut these new services.
- Conditioning the grant of additional flexibility on the existence of a binding agreement with a local government in non-tribal lands imposes unnecessary burdens on wireless carriers.

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TO: The Commission

**REPLY COMMENTS OF
SOUTH DAKOTA INDEPENDENT TELEPHONE COALITION, INC.**

The South Dakota Independent Telephone Coalition, Inc. ("SDITC"), pursuant to Sections 1.415 and 1.419 of the rules of the Federal Communications Commission ("FCC" or "Commission")¹, hereby submits its reply to those comments filed in response to the above captioned *Notice of Proposed Rulemaking* ("NPRM").²

I. STATEMENT OF INTEREST

SDITC is an organization representing the interests of numerous independent, cooperative, and municipal local exchange carriers ("LECs") in the State of South Dakota. SDITC member LECs are "rural telephone companies" as defined in 47 U.S.C. § 153(37) and all have been determined eligible telecommunications carriers by the South Dakota Public Utilities Commission within their established rural service areas or "study areas." These companies offer a wide variety of advanced services to the rural

¹ See 47 C.F.R. §§ 1.415, 1.419.

² *In the Matter of Extending Wireless Telecommunications Services to Tribal Lands*, WT Docket No. 99-266, *Notice of Proposed Rulemaking*, FCC 99-205 (rel. Aug. 18, 1999).

population of South Dakota over and above local exchange service, including Internet access, cellular telephone service, Personal Communications Service (“PCS”), and Local Multipoint Distribution Service (“LMDS”). Certain members of SDITC provide wireline services to Indian Reservations within the State of South Dakota, and/or have recently acquired market area licenses which include tribal lands. As such, SDITC members have an interest in and stand to be impacted by the outcome of this proceeding.

II. DISCUSSION

A. The Commission’s Proposed Rule Changes Should Apply To Tribal Lands, Unserved Areas *And* Rural Areas

The Commission, as stated in the first lines of the *NPRM*, has formulated a number of regulatory initiatives which are intended “to secure for consumers living on tribal lands the same opportunities to take advantage of telecommunications capabilities that other Americans have.”³ SDITC is concerned that the Commission, in focusing on “the telecommunications needs of Indians living on tribal lands,”⁴ may lose sight of its statutory obligation to facilitate the provision of service to rural areas in general.⁵ As the National Telephone Cooperative Association (“NTCA”) stated in its Comments, “the Commission should continually recognize that its goal is to promote service in areas that lack access to basic telecommunications service, not to create an artificially competitive marketplace.”⁶ SDITC certainly supports the proposal to facilitate the provision of communications services to tribal lands. However, most licensees serving rural areas

³ *NPRM*, at para. 1.

⁴ *Id.*

⁵ See 47 U.S.C. § 309(j)(3)(A).

⁶ Comments of National Telecommunications Cooperative Association (“NTCA Comments”), at 9.

face the same cost considerations and terrain obstacles as licensees seeking to serve tribal lands. Therefore, the Commission should extend any rule changes relaxing operational requirements to carriers and consumers in unserved and rural areas as well. In particular, if the Commission determines that it makes sense to increase the antenna height and transmitter power limitations for PCS and other wireless services, to permit more widely spaced towers, this benefit should be made available wherever populations densities are low.

B. The Commission's Proposals Will Not Significantly Increase Penetration Rates Of Basic Telephone Service To Tribal Lands Unless More Fundamental Problems Are Addressed

Sharing the views of several commenting parties in this proceeding,⁷ SDITC supports the Commission's efforts to facilitate the provision of service to tribal lands and other unserved areas, but questions the Commission's underlying assumptions regarding the level and quality of telecommunications service and penetration rates in these areas, and believes that some of the proposed rule changes will not produce meaningful results. NTCA has appropriately criticized the *NPRM* for formulating rule changes based on inaccurate data about Indian subscriber rates, and for accepting the myth that reservations and tribal lands are neglected by rural telephone carriers. As NTCA explained in its Comments:

"...it is important not to confuse penetration rates with access. Low subscriber rates are not always directly correlated to a lack of access to telecommunications service. Rural telcos have made basic telephone service available to most, if not all, of the tribal lands they serve. Penetration rates remain below the national average, but not as low as the

⁷ See, e.g., NTCA Comments, at 3-8; Comments of the Montana Telecommunications Association ("MTA Comments"), at 2.

overall figures the Commission suggests. Lack of access to service is just one factor leading to low penetration rates.”⁸

The Montana Telecommunications Association (“MTA”) similarly points out that the *NPRM* fails to take into account the economics and fundamental problems of providing service to tribal lands and unserved areas, indicating that “the FCC is misinformed about penetration rates and service on Tribal lands in Montana,” and accurately noting that “penetration has more to do with economic development and unemployment than with service/facility availability.”⁹

Indeed, rural telcos are willing and capable of providing service to tribal and unserved areas, a point which does not appear to be fully understood by the Commission. Golden West Telecommunications Cooperative’s (“Golden West”) commitment to the Oglala Sioux Tribe living on the Pine Ridge Indian Reservation (“Pine Ridge”) in South Dakota supports this position. As described in the attached report and letter to FCC Chairman William Kennard from United States Senators Tom Daschle and Tim Johnson, Golden West has invested approximately \$5 million in upgrading the telecommunications infrastructure on the Pine Ridge Reservation since 1993. As a result of that investment, Golden West now has over 330 miles of new fiber optic cable and 560 miles of new copper cable buried within the reservation boundaries. In addition, every community on the reservation is served by digital carrier switches. Golden West also has plans to make Asymmetric Digital Subscriber Line technology available to the residents of Pine Ridge, for high-speed Internet access. Golden West recognizes, however, that the presence of

⁸ NTCA Comments, at 3-4.

⁹ MTA Comments, at 2.

this state-of-art telecommunications infrastructure at Pine Ridge will not necessarily increase the penetration rate past the national average, due to economic factors. Golden West therefore has implemented an economic development program designed to bring new jobs and businesses to the reservation. The Commission should consider Golden West's experience and recognize that, until there is economic development and the creation of jobs in tribal lands, there will be very low usage rates for advanced telecommunications services. Accordingly, SDITC urges the Commission to reevaluate the studies and data used in developing its initiatives. Otherwise, the Commission and the industry will go to great lengths to change the wireless regulations, only to find that they have created cumbersome and ineffective measures which actually interfere with rural communications.

C. Granting Wireless Carriers Access To Universal Service Funds Is Not An Appropriate Way To Promote The Deployment Of Wireless Services To Tribal Lands And Other Unserved Areas

SDITC opposes the Comments of Western Wireless Corporation ("Western Wireless") and others suggesting that the Commission use the universal service mechanism as the principle means of promoting the widespread deployment of wireless services to tribal lands and other unserved areas.¹⁰ This tactic will undermine the ability of rural telcos to provide service in sparsely populated areas, as the state-approved carrier of last resort. Providing a subsidy to large wireless carriers that are not tied to the local communities will also inevitably harm the public interest, because such wireless carriers are not subject to the regulatory restrictions and obligations that rural telcos face, and can

¹⁰ See Comments of Western Wireless Corporation ("Western Wireless Comments"), at 3.

withdraw their service from a tribal land or unserved area without consequence, if the service proves less profitable than desired. As SDITC stressed in Comments submitted to the Commission in a related proceeding,¹¹ the Commission should avoid subsidizing the entry of carriers into rural areas that may not at this time efficiently support more than one provider of telephone service. The entry of other providers should be in response to economic realities in the marketplace, and not based on the diffusion of federal universal service subsidies in a way that will threaten the existence of carriers dedicated to serving all rural Americans.

D. The Commission Should Improve Its Regulation Of BETRS Licensees

SDITC agrees with NTCA and the Rural Telecommunications Group (“RTG”) who have demonstrated in their Comments that the Commission’s Basic Exchange Telephone Radio Systems (“BETRS”) rules limit the ability of licensees to provide basic telephone service to tribal lands and unserved areas.¹² As noted in their Comments, there are numerous flaws in the Commission’s BETRS rules and policies which explain why “relatively few new BETRS systems are being licensed at present, in tribal lands and elsewhere.”¹³ The Commission’s decision to impose a freeze in the licensing paging systems, with which BETRS licensees currently share spectrum, is one reason why so few BETRS licenses are currently being awarded. Another reason is that the Commission stopped accepting BETRS applications for frequencies in the 800 MHz

¹¹ *In the Matter of Western Wireless Corporation’s Petition for Preemption of An Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45.

¹² See NTCA Comments, at 12-14; Comments of the Rural Telecommunications Group (“RTG Comments”), at 4-5.

¹³ *NPRM*, at para. 19.

band. A third reason is that the Commission has inappropriately included the BETRS frequencies in the paging auction, requiring rural telcos to bid on and buy an entire economic area (“EA”) license if they want to acquire more BETRS spectrum. Clearly, this treatment of BETRS licensees severely hinders the installation of future BETRS operations in rural America, including tribal lands. A rural telco should not be expected to incur bidding costs and take on a buildout obligation for an entire EA merely to obtain additional BETRS spectrum for a remote application. Allowing rural carriers to apply for additional BETRS channels outside of the auction context could help the Commission to facilitate the provision of services to tribal lands and unserved areas.

The Commission should also consider increasing the height and power limits applicable to BETRS. As the Commission is aware, BETRS operates on the old 150 MHz and 450 MHz Improved Mobile Telephone Service or “IMTS” frequencies. This spectrum has better propagation in rural areas than PCS, LMDS, or even cellular, because it does not require line-of-sight. Therefore, increasing power and height limits (subject to protecting incumbent licensees from interference) could allow rural carriers to obtain better coverage with fewer transmitters.

E. Any Modifications To Height/Power Rules Must Include Interference Protection Measures

In the *NPRM*, the Commission suggested increasing the existing antenna height and transmitter power limits for PCS and other wireless services to permit more widely spaced towers, on the theory that this rule change may promote service to tribal lands and other unserved areas.¹⁴ On this issue, SDITC shares the views of NTCA, Dobson

¹⁴ See *NPRM*, at para. 17.

Communications Corporation (“Dobson”), and the United States Cellular Corporation (“USCC”), who stressed in their Comments that any modifications to the Commission’s antenna height and transmitter power limitations must include interference protection measures.¹⁵

SDITC urges the Commission to recognize that “one size does not fit all” when it comes to promoting wireless service on tribal lands. Some reservations are larger than others and some may be too small geographically to introduce widespread relaxation of height and power rules without creating interference to neighboring systems. Even if a reservation is large enough to justify relaxation of the rules, the carrier must devise interference protection plans and site towers in a manner that will not lead to interference along the borders of tribal land. Propagation characteristics vary over different geographic areas depending on the terrain or the amount of rainfall, which can make such planning and tower siting difficult.

As the record demonstrates, the Commission must clarify that any rule to allow for modified height and power limits on tribal lands will do nothing to compromise the protection of wireless licensees serving adjacent areas. To protect adjacent systems from interference, the Commission could, for example, (1) establish a “safe harbor” or clear technical operating parameters within which systems could operate at higher power/antenna height without being considered sources of interference; (2) require letters of concurrence from adjacent licensees subject to potential interference, if the tribal

¹⁵ See NTCA Comments, at 9; Comments of Dobson Communications Corporation (“Dobson Comments”), at 6; Comments of the United States Cellular Corporation (“USCC Comments”), at 3.

licensee wishes to exceed the safe harbor guidelines; and/or (3) require tribal applicants to show that there would be no overlap of a defined “service area contour” (and hence no interference) with neighboring systems. In addition, as stated initially, any modifications to the height/power limitations should also apply to other rural areas, so that a rural carrier’s buildout will require fewer transmitters and less expense. SDITC agrees that measures should be taken that will help foster tribal telecommunications. However, the Supreme Court’s decision in *Adarand Constructors, Inc. v. Peña*¹⁶ evidences the principle that such improvements must be applied even-handedly.

F. Relaxed Buildout Requirements May Slow The Deployment Of Wireless Services To Rural Areas Outside Of Tribal Areas

In the *NPRM*, the Commission noted that its buildout requirements provide licensees with the flexibility to determine the nature and scope of their system deployment, but they often result in sparsely populated or remote areas being built out much later than urban and suburban markets, or not being covered at all.¹⁷ In the Commission’s view, this trend has left many individuals on tribal lands without access to service, prompting the Commission to recommend modifications to its construction rules for licensees who focus their early buildout efforts on tribal lands and other unserved areas. For example, if the construction rules call for coverage of a specific percentage of the population by a certain date, the population served by networks covering tribal lands could be multiplied by five or ten times the actual population when applied to the required buildout percentage. For services subject to a “substantial service” construction

¹⁶ 515 U.S. 200 (1995).

¹⁷ See *NPRM*, at para. 24.

requirement, the Commission could determine that the provision of service to a tribal land qualifies as “substantial service” for purposes of meeting the requirement.¹⁸

Like NTCA, RTG and other commenters, SDITC is concerned that the adoption and implementation of this proposal will exacerbate the lack of deployment of wireless service in rural areas in general. As RTG noted in its Comments,

“allowing a licensee to meet its construction requirement by providing service to a tribal area may modestly encourage licensees to provide wireless service to such tribal lands, but it will not promote the deployment of wireless services to rural areas outside of the tribal areas, and may actually slow such deployment. Because of the underlying economics of tribal areas, a licensee meeting its substantial service requirement by providing service to a tribal area would face significant financial difficulties in operating its system.”¹⁹

Further, as noted in NTCA’s Comments, a relaxed buildout requirement may destroy any incentive licensees may have to partition rural areas to rural telephone companies and others, as a way to reduce the buildout burden.²⁰ The Commission therefore should not proceed with this proposal without considering the potential impact to consumers in rural areas. A more even-handed approach would be to award a multiplier or substantial service credit to any carrier that brings a new service to a rural area that was previously unserved. All or most tribal lands will qualify as rural areas.

¹⁸ *Id.*

¹⁹ RTG Comments, at 8

²⁰ NTCA Comments, at 11.

G. The Commission Should Not Allow Licensees To Expand Their Coverage Into Adjacent Licensing Areas That Are Unserved

In the *NPRM*, the Commission explained that in some instances, tribal lands extend into more than one licensing area, so that one licensee cannot provide service to the entire tribal land without extending its coverage into an adjacent licensing area. To address this situation, the Commission has suggested that wireless licensees be allowed to expand their coverage into adjacent licensing areas that are unserved, in order to provide full coverage to a tribal land.²¹ SDITC, like many commenters, is concerned that the adoption of this proposal will create uncertainty for licensees bidding at auctions for the exclusive right to serve their areas, and will undermine the value of licenses granted by the Commission to rural telecommunications providers who, out of economic necessity, must provide service to the populated portions of their licensed area first. Further, SDITC is concerned the adoption of this proposal would allow competitors to “cherry-pick” portions of a rural carrier’s unserved or underserved areas, if it is extended beyond tribal lands. In rural Basic Trading Areas, it may be economically feasible to serve the required portion of the licensed area only by starting with the most populated communities, thereby creating a revenue stream that will support construction and operation in the rest of the BTA. A key to establishing a comprehensive service is to cover key highways next, and subsequently reach smaller communities. If adjoining licensees are allowed to de facto partition important areas of the BTA (such as a strategic stretch of roadway), then an already difficult business case for serving the rural BTA will be jeopardized.

SDITC agrees fully with NTCA’s statement that “licensees should know their obligations and the risks as they evaluate how much a geographic area license is worth

²¹ See *NPRM*, at paras. 25-27.

and what they are willing to pay for it.”²² The Commission therefore should abandon this proposal.

H. The Expansion Of Permissible Service Definitions Will Reduce The Value Of Commercial Mobile Radio Licenses Already Granted And Undercut These New Services

SDITC opposes the Commission’s proposal to relax restrictions on the commercial use of spectrum in tribal lands and other unserved areas by certain categories of private radio licensees.²³ Rather than improve the prospects for extending wireless services to tribal lands, this proposal will reduce the value of commercial mobile radio licenses already assigned, and undercut the efforts of new PCS, LMDS and other auction licensees to get their fledgling services up and running. There is already adequate spectrum in these areas, as Western Wireless noted in its Comments.²⁴ Indeed, as USCC noted, a lack of available channel capacity is not a problem for carriers in rural areas. The problem these carriers face in deploying services to tribal lands and unserved areas is that there is “a mismatch between the actual costs of providing the service and the potential profits to be earned from such service.”²⁵ The Commission should accordingly abandon its proposal to expand permissible service definitions as a means to extend wireless telephony to tribal lands and other unserved areas.

²² NTCA Comments, at 11.

²³ See *NPRM*, at paras. 28-34.

²⁴ Western Wireless Comments, at 8.

²⁵ USCC Comments, at 7.

I. Conditioning The Grant of Additional Flexibility On The Existence Of A Binding Agreement With A Local Government Imposes Unnecessary Burdens On Wireless Carriers

The Commission has asked whether it should condition the grant of additional flexibility on the existence of a binding agreement between the licensee and relevant tribal authority in the case of tribal lands, or a binding agreement between the licensee and “a relevant authority” in the case of other unserved areas. As discussed in various Comments, the Commission’s proposal to condition the grant of additional flexibility on the existence of a binding between the licensee and the “relevant tribal authority” raises certain questions. CTIA, for example, expressed concern over the possibility that when a carrier attempts to site an antenna in a tribal land, there may be more than one authority. CTIA therefore poses certain questions, such as (1) which law governs in the event of a dispute? and (2) how can the agreement be enforced?²⁶ SDITC believes that all parties would benefit if the Commission clarified these questions with input from tribal authorities.

SDITC is more concerned about the Commission’s proposal to require an agreement with “other authorities” for proposals to serve non-tribal “unserved areas,” which could be any portion of the licensed area that does not receive a reliable signal from the existing licensee. If the Commission pursues this proposal, it should clarify that existing PCS, LMDS or other licensees do not have to enter into such binding agreements. Otherwise, certain local government agencies within the licensee’s service area may seize the opportunity to force unfair concessions from the carrier, in exchange for signing such agreements. Since any local area is under several layers of jurisdiction

²⁶ CTIA Comments, at 8.

(state, county, municipal, district), this requirement could turn into a quagmire. Such burdens to entry would be inconsistent with Section 253 of the Telecommunications Act of 1996.²⁷

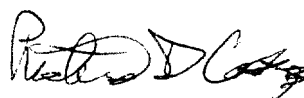
III. CONCLUSION

As the record in this proceeding demonstrates, many of the Commission's proposed initiatives intended to promote the provision of services to tribal lands and other unserved areas are misguided, unnecessary, and will not likely produce meaningful results. Moreover, as discussed above, the proposals could adversely affect consumers and carriers in rural areas, and create serious uncertainty for licensees bidding for commercial mobile radio licenses. The Commission should abandon its flawed initiatives, and reevaluate the data and studies underlying this rulemaking. Upon closer examination, the Commission will no doubt recognize that rural carriers are willing and capable of providing basic telephone and advanced wireless services to the populations of tribal lands and other unserved and rural areas, and that the implementation of regulatory "incentives" will not resolve the problem of low telephone penetration rates on Indian lands.

²⁷ 47 U.S.C. § 253.

In light of the foregoing, SDITC respectfully requests that Commission action be consistent with the foregoing premises.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard D. Coit". The signature is stylized with a large, looped "R" and a cursive "Coit".

Richard D. Coit
Executive Director and
General Counsel for SDITC

December 9, 1999

ATTACHMENT

United States Senate

WASHINGTON, DC 20510

August 17, 1999

The Honorable William E. Kennard, Chairman
Federal Communications Commission
1919 M Street NW, Room 254
Washington, DC 20554

Dear Chairman Kennard:

We are writing on behalf of Jack Brown, General Manager of Golden West Telecommunications, regarding his concerns that officials at the Federal Communications Commission (FCC) and others within the Clinton Administration have incomplete information about the existing telecommunications infrastructure at the Pine Ridge Indian Reservation. His concerns are based on statements made during the President's recent visit to Pine Ridge to promote his "New Markets Initiative."

During the President's visit, Jack was troubled by statements from Administration officials which suggested that the telecommunications infrastructure on the Pine Ridge Reservation was substandard. While Jack agrees that there are legitimate concerns with the condition of the telecommunications infrastructure for tribal areas across the country, he does not agree with the Administration's assessment of the infrastructure currently available in Pine Ridge.

Golden West Telecommunications is a rural local exchange carrier that serves a large geographic area in Western South Dakota, including a large portion of the Pine Ridge Indian Reservation. According to the company, approximately \$5 million has been invested in upgrading the telecommunications infrastructure on the Pine Ridge Reservation since 1993. As a result of that investment, Golden West now has over 330 miles of new fiber optic cable and 560 miles of new copper cable buried within the reservation boundaries. In addition, every community on the reservation is served by digital carrier switches. According to Golden West, Asymmetric Digital Subscriber Line (ADSL) technology is planned for the near future that will make high-speed Internet access available to tribal residents. It should also be noted that the reservation is connected to an OC48 Sonet Ring that ensures this state-of-the-art technology through redundant networks. These infrastructure improvements, made over the past six years, have enabled the Oglala Lakota College in Kyle and Pine Ridge to expand educational opportunities and telemedicine services throughout the reservation, and have opened the doors for tribal residents to receive the same quality Internet service as their non-tribal neighbors in Golden West's service area.

Golden West officials have also informed us that the company currently serves approximately 80 percent of the available structures on the reservation, including homes, businesses, and government agencies. In addition, the company has also taken innovative steps to address the special needs of low-income customers by allowing local-only service in cases of economic hardship and by offering 911 emergency services even after the phone has been disconnected for non-payment.

The Honorable William Kennard
August 17, 1999
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Golden West Telecommunications has invested a significant amount of time and resources toward making advanced telecommunications services available on the Pine Ridge Reservation. However, based upon the Administration's statements, it appears that these investments were not taken into account. We believe this is especially unfortunate due to the fact that FCC officials met with Jack Brown in Washington over one week before the President's visit to discuss the availability of telephone service on the Pine Ridge Reservation.

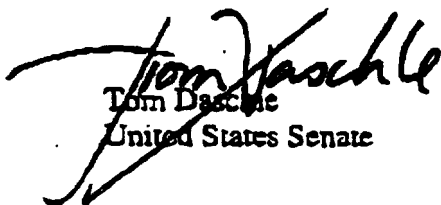
Golden West Telecommunications is committed to improving access to telecommunications services on the Pine Ridge Indian Reservation and believes that improving the economic and housing conditions for reservation residents are primary to this goal. In addition, they recognize that a need exists to improve cellular service on the reservation and have promised to work with the wireless industry to address this challenge. However, they believe that overbuilding an existing state-of-the-art infrastructure with a wireless local loop would be inefficient and counterproductive to the goal of providing affordable universal telecommunications service in geographically remote areas, both on and off of the Pine Ridge Indian Reservation.

Over the years, Golden West Telecommunications has been a leading advocate of telecommunications issues affecting Native American reservations and worked closely with our offices to build support for a technical amendment to the Telecommunications Act of 1996 that enabled tribally-owned telecommunications cooperatives to be eligible for universal service support. We believe that Golden West Telecommunications has taken significant steps to ensure advanced telecommunications services are made available to rural and tribal residents of their service area.

Consequently, we would like to invite you and your staff to visit with Golden West officials and other concerned parties on the Pine Ridge Indian Reservation in the very near future to examine the telecommunications infrastructure that exists and issue a detailed report to us on its status. In addition, we would also like to gain a better understanding of the methods used by the FCC to determine the status of the current telecommunications infrastructure on the Pine Ridge Reservation prior to the President's visit.

We greatly appreciate your attention to this matter.

Sincerely,



Tom Daschle
United States Senate



Tim Johnson
United States Senate

cc: Lynn Cutler, Senior Advisor to the President
Larry Irving, Director National Telecommunications and Information Administration
Chris Mclean, Deputy Administrator Rural Utilities Service

Telecommunications Capabilities Pine Ridge Reservation

Prepared by

**Golden West
Telcommunications
Cooperative**

Submitted to

Pine Ridge Reservation Tribal Council

October 26, 1999

The relationship between Golden West Telecommunications Cooperative and the Oglala Sioux Tribe began over 30 years ago when both organizations came together to bring telephone service to the Long Valley and Kyle communities. Since then, the relationship between Golden West and the Oglala Sioux has flourished in a number of different ways resulting in the Reservation possessing one the most advanced telecommunications infrastructures in the upper Midwest.

This is an accomplishment that both organizations should be proud of since larger corporations like U S West and GTE displayed little interest over the years ago to serve remote areas on the Reservation.

Nevertheless, what's important now is that the Pine Ridge Reservation possesses the telecommunications capability to attract progressive new businesses to the area utilizing state-of-the-art technology.

The commitment it took to accomplish that achievement still exists today because of the continuing goals that both Golden West and the Oglala Sioux share for the future of the Pine Ridge Reservation. That's why we welcome the opportunity to take a moment with you to discuss what technology is now available on the Reservation and how the Oglala Sioux Tribe can use it to enhance economic activity on the Reservation. *

With that said, this document will: 1) recap Golden West's investment in infrastructure on the Pine Ridge Reservation highlighting the state-of-the-art technology already available throughout the exchanges; 2) review how Golden West determines its penetration rate within the Reservation's borders; 3) discuss the steps needed to achieve 100 percent penetration; and 4) present Golden West's economic development initiatives for the Pine Ridge area.

Infrastructure on the Reservation

The infrastructure throughout the Pine Ridge Reservation is state-of-the-art technology that exceeds the capabilities of most other communities in South Dakota. It is a land-based system that not only exceeds the capabilities of current wireless technology, it is designed to accommodate technology now and in the future.

The following list represents what is now available on the Reservation and what will be available in the near future.

Now Available

Digital Subscriber Line (DSL): a service that provides both voice and dedicated high speed data transfer on one line eliminating the need (and cost) for second lines.

* We submit this document in good faith and expect that all material contained in this document be protected as confidential correspondence between Golden West and the Oglala Sioux Tribe

Frame Relay: Frame relay is a cost-savings technology built specifically for wide area networks. The service removes distance-sensitive rates by combining access links through central locations.

Asynchronous Transfer Model (ATM): Technology that is very similar to frame relay (see frame relay).

ISDN (Integrated Services Digital Network): A service similar to DSL that provides both voice and dedicated high speed data transfer on one line eliminating the need (and cost) for second lines. However, the speed is slower than DSL but costs less too. Both Basic Rate Interface and Primary Rate Interface are available.

Switches: A majority of the Pine Ridge Indian reservation is served by a Nortel DMS-10 digital switch providing advanced features including all CLASS (Caller ID, Call Rejection, etc.) and CENTREX capabilities.

Telecommunications Lines: Pine Ridge and the surrounding communities on the Reservation are connected with close to 900 miles of new telecommunication lines including 334 of those miles being fiber optic.

What will be available in near future

LMDS (Local Multipoint Distribution Service): Two-way wireless technology capable of broadband services including high speed data and video streaming. Golden West recently acquired the A license (largest spectrum) for this technology in western South Dakota.

PCS (Personal Communication System): PCS is a digital wireless technology that provides secure, high quality, high speed telecommunications service.

AIN Services (Advanced Intelligent Network): AIN is a recent arrival to Golden West Telecommunications that allows users to choose from several call management features. The following list is just some of the many new features offered by AIN.

Telemarketing Call Screening: Used for blocking those annoying telemarketing calls.

Verified Account Code Billing: Used for assigning toll costs to specific accounts

Automatic Number Announcement: Used to obtain the telephone number of the line placing the call.

Changed Number Announcement: Provides the capability for the switch to voice back referral number for a directory number that has been changed or is no longer in service.

Do Not Disturb with Override Code: Allows a user to define a time period during which incoming calls can be restricted.

Personal Billing: Allows a single telephone line to be shared by up to four users in a household or business.

Wake Up Service: Allows users to schedule up to two wake-up calls within the next 24 hours.

Restrictions: Allows users to implement various restrictions ranging from 900 calls to one-plus calls.

Penetration Rate in Pine Ridge:

Essential to any telecommunications infrastructure plan is the level of penetration rate within exchange(s). In other words, how many people are getting hooked-up to use the new technology. With that said, the phrase "penetration rate" has been used in at least two contexts – 1) usage penetration, and 2) plant penetration. We will address both.

Usage Penetration on the Pine Ridge Reservation:

Total Golden West Access Lines on Reservation:

<u>Exchange</u>	<u># Access Lines on PRR</u>
Interior Exchange	90
Kyle Exchange	1,007
Long Valley Exchange	407
Martin Exchange	13
Pine Ridge Exchange	<u>2,397</u>
Total	3,914

Determining Penetration Rate:

Number of Oglala Sioux Tribe members (numbers based on BIA statistics)	38,000
Number of OST members living on Reservation	22,286
Number of OST members within Golden West service area	21,000
Estimate number of people per household (conservative)	4.5
Estimate number of structures on Reservation	4,600
Number of Golden West access lines on Reservation	3,914
Golden West Penetration Rate	85%

Infrastructure (Plant) Penetration

Plant penetration on the Reservation exceeds our usage penetration rate based on the fact that we literally have hundreds of lines buried to former dwellings (mobile homes or abandoned wood structures) that are not being used at this time. Adding the number of abandoned lines to the number of access lines in use (see above) combines for an average that is well above the 85% user penetration on the Reservation.

Obtaining 100% Penetration on Pine Ridge

Currently, Golden West will build to any customer requesting service who does not have an outstanding bill with Golden West. If the construction distance exceeds what is outlined in the Cooperative's policy regarding line extensions then the subscriber must agree to an aid to construction arrangement. After reviewing our records, we found that over the last three years, only 30 individuals on the Reservation have requested line extensions (aid to construction agreements) but did not use them.

Nevertheless, it is our perspective that the remaining 15% of structures not receiving telecommunications services are not receiving them because of financial reasons. Therefore, any plan to increase the penetration rate on the Reservation past the national average of 95% to 100% must include a financial element. We offer the following suggestions.

Immediate

- Use a portion of Golden West's \$15,000 economic development donation to establish a fund to help pay aid to construction costs. This will help tribal members overcome the initial construction costs associated with connecting remote structures.
- Help Golden West educate tribal members on the two low-income assistance programs aimed at reducing telecommunication costs. Those programs are: 1) Lifeline/Link-Up and 2) Golden West's LOTS (local only telephone service).

Long Term

- Take efficient and complete advantage of the Reservation's new designation as an empowerment community.
- Work with Golden West in developing economic development plans that will attract new businesses to the area.

Economic Development

First off, Golden West is committed to working diligently with Tribal officials on ways to bring new businesses and jobs to the Pine Ridge Reservation. In fact, as a result of President Clinton's empowerment designation, we've already explored the possibility with a couple of businesses in the Midwest. We'll talk more about this at the October 26 meeting.

With that said, Golden West Telecommunications Cooperative's economic development plans for Pine Ridge is based on a long term strategy that began in 1982 when the Company acquired the exchange from Bison State Telephone Company, a division of Contel. Here is a brief history of just some of the economic development projects that Golden West has completed on the Pine Ridge Reservation as well as a few we are still exploring.

A Stromberg-Carlson electro-mechanical switchboard of 1950s vintage was serving Pine Ridge and was soon replaced by a new Northern Telecom digital DMS-10. All of this took place nearly a year in advance of when a mechanical switchboard of identical manufacture and age was replaced in the Cooperative's headquarters' town of Wall.

This practice by the Board of Directors of allocating funds to areas with the greatest need has continued to this day and is evidenced by the more than \$5 million that has been invested on the Pine Ridge area telecommunication's infrastructure since 1995.

One of the reasons Cooperative officials were so disappointed with the President's recent visit was the failure on the part of both the White House and the FCC to capitalize on the excellent communications infrastructure that exists on the Pine Ridge. The reservation already possesses, through the commitment of the Golden West Board of Directors and employees and through the cooperation of its members, a state-of-the-art infrastructure that stands unrivaled in communities even the size of Sioux Falls or Rapid City.

Cooperative members in the Pine Ridge area and Reservation businesses have also benefited from the economic development associated with each year's patronage capital credit retirement – a benefit for owners of the Cooperative. Amounts returned in the past four years alone total approximately \$250,000 and if the old axiom of each dollar turning over twelve times is true, that another \$3 million, dollars that would have in past years gone to stockholders of Contel in perhaps a Denver or a Kansas City.

In 1998 alone, Cooperative members living on the Reservation and elsewhere received, in the form of a capital credit allocation, about .30 cents for every dollar spent on Golden West services (local & long distance services). Here's how the rates for telephone service are reduced as a result of the capital credit allocation.

Net Rates after 1998 capital credit allocation

<i>Local Service</i>	Usual Rate	Capital Credit Discount (30%)	Net Rate to Customer
GW Business	\$21.95	\$4.87	\$17.08
Residence	\$10.95	\$2.43	\$8.52
R-B	\$14.95	\$3.32	\$11.63
<i>Long Distance Service</i>			
Right On the Money Monthly charge	\$10.9 cents p/m \$3.95	\$3 cents p/m	\$7.6 cents p/m

Rates without monthly charge:

Intrastate Only	\$16 cents p/m	\$4.8 cents p/m	11.2 cents p/m
Interstate Only	\$14 cents p/m	\$4.2 cents p/m	9.8 cents p/m

Today those dollars, not to mention many of the other dollars spent by Cooperative members, remain in the Pine Ridge area and are reinvested back into further expansion and enhancement of the Company and its services. A good example is the Board's decision to make all calls within the Cooperative area toll-free. Cooperative/Tribal members in Martin or White River can now call the OST Headquarters in Pine Ridge without incurring a long distance call and in fact enjoy one of the largest toll free calling areas in the nation.

Golden West has also taken a leadership role in helping to fund the start up of the West River Business Service Center, WRBSC, in Rapid City. WRBSC houses offices for the Small Business Administration, SCORE and offers West River area businesses, including those from Pine Ridge, free expertise for developing business plans, tapping into market research and creating marketing strategies. WRBSC's office is located on the second floor of the Rushmore Plaza Civic Center.

The Cooperative has, over the course of the past two years, further expanded on that commitment to economic development by setting aside \$400,000 in economic development grants, \$30,000 of which has gone to the Oglala Sioux Tribe. Economic development organizations in Golden West communities outside of the Reservation receive \$5,000 annually.

Golden West's economic development plan for the Pine Ridge area has included the hiring of several Tribal members. The Cooperative now employs four Tribal members in the Pine Ridge exchange, three in the Kyle exchange, one in Hot Springs and one in Wall. The Cooperative's 13-member Board of Directors also includes two tribal members, Dick Hagen of Pine Ridge and Wayne Livermont of Vetal. Prior to Golden West's arrival, Bison State employed only two Native American employees in Pine Ridge.

Representatives of Golden West have also had discussions with individuals from the Pine Ridge area on the creation of a center to process, print and mail the billing for Golden West and other telephone and cable companies. Golden West has expressed a desire to have this service performed locally, provided the costs are reasonable and the service reliable. The Company looks forward to further talks in this area that might results in the creation of additional jobs for the Reservation.

In addition to the telephone side of its operation, the Cooperative has, through one of its subsidiaries, also brought cable television to several reservation communities including Kyle, Evergreen, Manderson and Waplee. The availability of a 34-channel basic service package and three premium (or pay channels) has provided entertainment services to

Tribal residents in these small communities and has helped attract teachers and others to the area. Further expansion of those systems is planned that will continue to contribute to the economic development of the area.

The Cooperative has also, through yet another subsidiary, expanded its Black Hills paging operation to cover a good portion of the Pine Ridge Reservation. Other wireless investments to date include both a LMDS and PCS license that the Company hopes to deploy once equipment costs become affordable and market conditions more favorable.

As you can see, Golden West has a proven track record of investing in the Pine Ridge area. From the OC-48 redundant fiber optic ring to the Company's \$10,000 contribution to the Oglala tornado relief fund, Golden West is committed to working with the Oglala Sioux Tribe in creating better economic opportunities for the Reservation.

In the case of Golden West and the Company's commitment to its members, ACTIONS DO SPEAK LOUDER THAN WORDS.

Conclusion

It's been over three decades since Golden West and the Oglala Sioux Tribe began its commitment to one another. In that time, the Pine Ridge Reservation has experienced enormous progress in telecommunications capabilities. And in spite of what larger urban-based telecommunication corporations and the FCC would have you believe, the Pine Ridge Reservation possesses the penetration levels and technical capabilities to harvest the benefits of state-of-the-art technology now and in the future.

Phone system defended

■ Golden West says reservation telecommunications hardware is up to date.

By Dan Daly
Journal Staff Writer

In his speech at Pine Ridge on Wednesday, President Clinton pledged to help tribes improve their telephone service, which in turn will attract business to the reservations.

"The infrastructure is already here," declared Jack Brown, general manager of Golden West Telecommunications, the Wall-based company that serves the Pine Ridge Indian Reservation. "We think the president missed a great opportunity."

He said Clinton could have shown the corporate executives who accompanied him on his trip that the reservation already has the technology in place to help them create the jobs that are so badly needed there.

Since 1993, Golden West has spent \$5 million, strung 563 miles of new copper phone lines and buried 334 miles of new fiber optic lines on the reservation, Brown said. In some key ways, he said, the telecommunications system on the Pine Ridge Indian Reservation is more reliable than the system that serves Rapid City, Sturgis and Spearfish.

Also, Golden West has installed digital carrier switches throughout the reservation. "This means not only first-class voice circuits on the reservation, but also in the not-too-distant future, we will be able to provide high-speed Internet throughout the reservation with the use of ADSL (Asymmetric Digital Subscriber Line)," Brown said.

'We think the president missed a great opportunity.'

— Jack Brown,
Golden West Telecommunications

Brown said he will invite officials from the Federal Communications Commission, including its chairman, to tour the Pine Ridge Indian Reservation to see for themselves the technology that is in place.

Clinton stopped in Pine Ridge on Wednesday during his New Markets Initiative tour of impoverished regions bypassed by the current booming U.S. economy. His theme was that public-private cooperation can help bring a measure of prosperity to these regions.

Golden West also disputed recent statements by FCC officials that Golden West serves only 30 percent to 40 percent of the Indian families on the reservation. Because of poverty and inadequate housing, several families often share the same house — and share the phone as well.

Golden West has more than 4,000 access lines on the reservation, and Brown estimated that the company serves 80 percent of the homes and businesses. For customers who fall behind on bills, Golden West offers local-only phone service until they can catch up. Those whose phones are disconnected can use their phone to call 911 emergency dispatchers.

Pine Ridge is one of three Indian reservations in Golden West's service area. The company bought the Rosebud exchange in 1993 and the Lower Brule exchange in 1996.

The company also operates a fiber optic cable television system that links five communities in Shannon and Bennett counties, said Dwight Flatt, manager of Golden West Cablevision.